

EX PARTE OR LATE FILED DOCKET FILE COPY ORIGINAL

JONES, DAY, REAVIS & POGUE

ATLANTA IRVINE
AUSTIN LONDON
BRUSSELS LOS ANGELES
CHICAGO NEW YORK
CLEVELAND PARIS
COLUMBUS PITTSBURGH
DALLAS
FRANKFURT RIYADH
GENEVA TAIPEI
HONG KONG TOKYO

METROPOLITAN SQUARE
1450 G STREET, N.W.
WASHINGTON, D.C. 20005-2088

TELEPHONE: 202-879-3939
TELEX: DOMESTIC 892410
TELEX: INTERNATIONAL 64363
CABLE: ATTORNEYS WASHINGTON
FACSIMILE: 202-737-2832
WRITER'S DIRECT NUMBER:

June 24, 1993

EX PARTE OR LATE FILED

RECEIVED
JUL 1 1993
FCC MAIL BRANCH

Office of The Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C.

Re: Billed Party Preference - CC Docket No. 92-77

To The Secretary:

Pursuant to the Commission's ex parte rules, this is to inform you that on June 24, 1993 I met with Linda Oliver of Commissioner Duggan's staff and, on behalf of One Call Communications, Inc. and Metromedia Communications, Inc., discussed the subject of billed party preference for O+ interLATA calls (CC Docket No. 92-77). The referenced proceeding is "non-restricted" for purposes of ex parte communications. At the meeting, my oral presentation reflected previously filed written comments. Enclosed, pursuant to the Commission's Rules, 47 C.F.R. § 1.1206(a)(1), are two copies of the written presentation handed out at the meeting.

Sincerely,

Edward B. Myers

Edward B. Myers,

Enclosures

No. of Copies rec'd
List ABCDE

041

RECEIVED
JUL 1 1992

FCC MAIL ROOM

EX PARTE OR LATE FILED

CC Docket No. 92-77

BILLED PARTY PREFERENCE (BPP)

- A. BPP WILL INCREASE, NOT REDUCE CALLER CONFUSION
 - 1. "Double Operator"
 - a. Even Some BPP Supporters See Inevitability of Double Operator Problem
 - b. Link Between AABS and SS7 Will Not Be Established for the Foreseeable Future
 - 2. Inconsistent Implementation of BPP will annoy and confuse consumers
 - a. BPP, contrary to claims of some, cannot be universally deployed for many years.
 - (1) SWBT admits that complete implementation would not occur before 1996.
 - (2) NYNEX concurs that BPP would require a lengthy implementation period
 - b. Equal Access and Non-Equal Access
 - c. Locations Served By Small IXCs
 - (1) Will not be able to afford to implement BPP as quickly as large IXCs
 - (2) Do not have technological capabilities to implement BPP
- B. THE ENORMOUS COSTS OF IMPLEMENTING A NATIONWIDE SYSTEM OF BPP OR ALL O+ INTERLATA CALLS OUTWEIGHS THE PERCEIVED BENEFITS AND IS CLEARLY NOT IN THE PUBLIC'S INTEREST
 - 1. Contrary to Court And FCC Rulings, BPP Will Undermine Competition In The Operator Services Market

- a. BPP removes commissions for O+ interLATA traffic and thereby removes the incentive to aggregators to install payphones.
- b. Fewer payphones will be detrimental to consumers, especially travellers that make the greatest use of O+ interLATA service.
- c. Without commission-based remuneration for COCOT phones, recovery of the substantial outlay by the owners of those phones will be jeopardized.

2. The Costs Of Implementing BPP Outweigh The Resulting Harm To Consumers

- a. The costs of BPP will ultimately be borne by the consumer, either directly or indirectly, in the form of higher rates for O+ calls
- b. While estimates of the cost of implementation of BPP are speculative, the amount likely to be spent is in the hundreds of millions of dollars
- c. SWBT admits there are certain "unknowns." Its vendors' price estimates have increased from \$75 million to \$127 million for BPP. SWBT's original estimate of \$50 million is now the "floor" price of just the signaling requirements for BPP.
- d. NYNEX believes costs of BPP will be high. In the NYNEX operating area, BPP will cost more than \$82.6 million in capital expenses and additional annual expenses of \$13.7 million for additional operations. NYNEX also states that BPP's per-call costs will be high.
- e. The foregoing costs of implementation don't include the

additional significant cost of the anti-competitive impact of BPP.

- f. The primary alleged benefit of BPP is giving consumers the ability to avoid having to use a 10XXX access code. The other alleged benefit is the elimination of the commission-based system and a refocusing of marketing efforts to the end-user.
- g. Weighed against these alleged benefits, the costs are enormous, particularly since (i) consumers largely are already accustomed to using 10XXX, 950, or 800 access methods, and (ii) the supposed benefits from refocusing marketing efforts are speculative at best.

3. BPP Will Restrict Competition In More Than

~~Just The Consumer Services Market And End Ma~~

C. COMMISSION EVALUATION OF BPP IS PREMATURE AND SHOULD BE DEFERRED

1. BPP Cannot Be Implemented Because Technological Hurdles Have Not Been Cleared
2. BPP Should Not Be Mandated Because Consumers Are Already Familiar With The Status Quo
3. It Remains Unresolved Whether The BOCs Can Provide Operator Services To OSPs Under The MFJ
4. The Commission, Like The MFJ Court, Should Shelve Its Tentative Decision To Implement BPP Until It Can Be Provided Efficiently And The Costs Are Known
 - a. Contrary to the claims of Bell Atlantic and others, the MFJ Court did not mandate LIDB or BPP and the BOCs already were spending money to deploy LIDB irrespective of this proceeding
 - b. Should the MFJ Court order the BOCs to use BPP, it will be as an antitrust remedy
5. Market Forces, Not Government Agency Intervention, Should Be Allowed To Influence O+ Services

D. IF BPP IS ADOPTED BY THE COMMISSION, THERE IS NO LEGITIMATE BASIS FOR REQUIRING BPP FROM ALL PAY TELEPHONES

1. There Is Ample Precedent To Support Different Treatment Of Payphones And Public Telephones
2. Presubscription Commissions Are Paid To Reimburse Premises Owners For Services, Not As A Bribe

E. THE BOCs WILL NOT BE UNFAIRLY DISADVANTAGED IF BPP IS SHELVED, AND THE FCC SHOULD NOT GRANT THE BOCs' REQUEST FOR PROTECTION AGAINST COMPETITION

1. Bell Atlantic Is Not Motivated By Equal Access Concerns, But By Fear That The Application Of BPP To Public Payphones Will

**Cause Premises Owners To Switch To Private
Payphones, And Thereby Reduce Its Revenues**

- 2. The Commission Should Not Interpose Itself To
Protect Market Share Of Former Monopolists**